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NASA Procedural Requirements

COMPLIANCE IS MANDATORY

NPR 3713.2

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Request Notification of Change

(NASA Only)

Subject: Alternative Dispute Resolution for Discrimination Complaints

Responsible Office: Office of Diversity & Equal Opportunity

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Chapter 4. ADR Formal Process

4.1. The Agency Office of Diversity and Equal Opportunity administers the Agency EEO ADR program and the formal stage of the EEO complaints process. This chapter lays out the EEO ADR process at the formal stage.

4.2 Determining Appropriateness of Complaint for Mediation

4.2.1 During the acceptance/dismissal stage of the complaint process, the Agency ADR Program Manager (ADR Program Manager) shall coordinate with the Center management in determining whether to offer mediation at the formal stage of the process.

4.2.2 Center management, in consultation with the EO Director and/or the Center ADR Manager (ADR Manager), shall determine whether the formal complaint is appropriate for mediation.

4.3 Arranging for Mediation

4.3.1. The ADR Program Manager shall identify a mediator and provide the mediator with the names of the parties to determine whether there is a potential or actual conflict of interest.

4.3.2 The ADR Program Manager shall contact all the parties to the mediation and provide them with the name of the mediator(s).

4.3.3 The parties shall have an opportunity to request another mediator if the mediator is

not acceptable to either party.

4.3.4 The ADR Program Manager shall provide the mediator with all pertinent documents needed to conduct the mediation. The mediator shall contact the Center ADR Manager to assist in coordinating the mediation session(s).

4.3.5 The Center ADR Manager shall serve as the mediator's point of contact for onsite resources and support, such as logistical arrangements and access to the Center.

4.4 Monitoring the Progress of the Mediation

4.4.1 The ADR Manager, if other than the EO Director, shall keep the EO Director apprised as to the status of the mediation process.

4.4.2 The ADR Program Manager shall, in consultation with the Center ADR Manager and the mediator, determine whether mediation should be terminated due to unreasonable delays or other evidence of lack of good faith by either party.

4.4.3 The complainant may also terminate the mediation and return to the EEO process at any time.

4.5 Settlement

4.5.1 If settlement is reached through mediation, the terms shall be reduced to writing.

4.5.2 The Office of the General Counsel, the Office of the Chief Counsel, or the Counsel to the Inspector General shall review the agreement for legal sufficiency prior to obtaining all necessary signatures.

4.5.3 The settlement agreement shall be signed by the complainant and the settlement official. (See Appendix C.3.)

4.5.4 The Management representative shall consult with officials in the Center EO office, the Office of the General Counsel, the Office of the Chief Counsel, the Counsel to the Inspector General, Human Resources or Human Capital Offices, or other site officials, as appropriate, during the course of the settlement discussion.

4.5.5 The Center ADR Manager shall send a signed and dated copy of the settlement agreement to the Director, Complaints Management Division, ODEO and the EO Director within five business days of the execution of the settlement agreement.

4.5.6 The following language shall be included in all settlement agreements:

If [insert name of aggrieved/complainant] believes that NASA has not complied with the terms of this agreement, s/he may request that the terms be specifically implemented, or alternatively, that the complaint be reinstated for further processing at the point ceased, in accordance with the procedures set forth in 29 C.F.R. §1614.504. Any such request must be made within thirty (30) calendar days of the date s/he knew or should have known of the noncompliance and must be forwarded to the DIRECTOR, COMPLAINTS MANAGEMENT DIVISION, OFFICE OF DIVERSITY AND EQUAL OPPORTUNITY, NASA HEADQUARTERS, WASHINGTON, D.C. 20546, with an explanation as to why s/he believes that the agreement has not been carried out.

4.5.7 If the complaint contains an allegation of age discrimination, the settlement agreement must contain the appropriate settlement provisions required by the Older

Workers Benefit Protection Act (OWBPA). (See Appendix C.4.)

4.6 When Mediation Does Not Result in Settlement

4.6.1 If a resolution cannot be achieved, the mediator shall end mediation and notify the Center ADR Program Manager.

4.6.2 The Center ADR Manager shall advise the Agency ADR Program Manager that the mediation effort did not result in settlement.

4.6.3 The complaint shall resume through the regular complaint process at the point where processing ceased.

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